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F.#2014R00231

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA

- against -

LILAAHAR BICAL,
also known as "Sammy," and
DARMIN BACHU,

Defendants.

- - - - - - - - - - - - - - - -X

INDICTMENT

Cr. No. CR 16 555

(T. 18, U.S.C., §§ 982(a)(2)(B), 1341, 1343, 1349, 2 and 3551 et seq.; T. 21, U.S.C., § 853(p))

DeARCY HALL, J.

TISCIONE, M.J.

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment:

I. General Motors Company

1. General Motors Company LLC ("GM") was a multinational corporation headquartered in Detroit, Michigan, that designed, manufactured, marketed and distributed vehicles and vehicle parts and sold financial services. In the United States, GM produced and sold vehicles under brands including Buick, Cadillac, Chevrolet and GMC. GM marketed vehicles primarily through a network of independent authorized retail dealers. GM entered into contracts with each authorized retail dealer agreeing to sell one or more specific GM product lines to those dealers at wholesale prices and granting the dealers the right to sell those vehicles to retail customers from an approved GM dealership facility. GM also offered

authorized retail dealers financing in various forms to assist with, among other things, the construction of new dealership facilities.

II. The Defendants

2. The defendant LILAAHAR BICAL, also known as "Sammy," was the owner of Kristal Auto Mall, an authorized GM dealership in the Flatlands neighborhood of Brooklyn, New York. BICAL wanted to move this dealership to a parcel of land in the Mill Basin neighborhood of Brooklyn (the "Site"), which was owned by the City of New York (the "City"). The Site was controlled by the New York City Economic Development Corporation (the "EDC"), a City agency. Beginning in or about 2004, BICAL sought to acquire control of the Site from the EDC, either through a purchase or a long-term lease.

3. The defendant DARMIN BACHU was an attorney licensed to practice law in the State of New York. BACHU's offices were located in Queens, New York. On occasion, BACHU acted as counsel for BICAL.

III. The Scheme to Defraud GM

A. BICAL's Misrepresentation to GM Regarding Land Acquisition

4. In or about December 2011, BICAL engaged in negotiations with GM to obtain funding of up to $15 million from GM in the form of grants or loans, in order to build a new GM dealership facility at the Site (the "Proposed Funding"). During these negotiations, GM informed BICAL that the Proposed Funding, if authorized, would be contingent upon BICAL's successful purchase or lease of the Site from the City. Also during these negotiations, GM directed BICAL to provide it with all financial and business records relating to his acquisition of the Site, including the purchase or lease price BICAL was to pay the EDC.

5. "Land Acquisition Transparency," i.e., access to financial and business information concerning BICAL's acquisition of the Site, including the price paid for the Site, was an important factor in GM's decision whether to provide the Proposed Funding to BICAL.

6. BICAL attempted to obtain the Proposed Funds from GM without disclosing to GM the sale or lease price for the Site. In furtherance of the scheme, on February 24, 2012, at approximately 4:05 p.m., BICAL placed a call from Brooklyn to BACHU using BICAL's cellular telephone. The call was intercepted pursuant to a judicially authorized wiretap. During the call, BICAL requested that BACHU draft a false and fictitious non-disclosure agreement between BICAL and the EDC that purportedly prevented BICAL from disclosing to GM any financial and business records relating to the acquisition of the Site, including the price BICAL would pay the EDC for control of the Site. BICAL stated: "I don't want to give the information [to GM] so I told them that I signed—signed a letter of confidentiality with—with EDC . . . And I can't give them [sic]. Now, they ask me—'so, can you just show us a copy of the letter?'. . . I don't have it. So, I have to make it up." BACHU responded: "So, not a problem. We'll make one up right away." BACHU told BICAL he would provide a draft fictitious confidentiality letter and BICAL would just have to insert the relevant names. BICAL requested that BACHU email the draft confidentiality letter to BICAL. BACHU told BICAL he would do it right away. The call ended at approximately 4:07 p.m.

7. On February 24, 2012, at approximately 4:16 p.m., there was a log-in to BICAL's email account (the "Bical Email Account") from Brooklyn. In order to log in to the Bical Email Account, the screen name and password for the Bical Email Account were

validated at a data center in Virginia via electronic wire communications to and from that data center.

7. On February 24, 2012, at approximately 8:31 p.m., BICAL called BACHU from Brooklyn. During the call, which was intercepted pursuant to a judicially authorized wiretap, BICAL told BACHU that he [BICAL] had not yet received the email. BACHU replied that he had sent it and offered to provide additional drafts upon request.

8. On or about February 28, 2012, BICAL showed a GM representative a copy of the fictitious confidentiality agreement prepared with BACHU's assistance.

B. Frustration of the Scheme

9. Following BICAL's misrepresentations to GM concerning the fictitious confidentiality agreement, on or about March 15, 2012, GM sent a "letter of intent" from Connecticut via private interstate carrier to BICAL in Brooklyn (the "Letter of Intent"). The Letter of Intent listed the terms of continued negotiations for the Proposed Funding. Pursuant to the Letter of Intent, BICAL was required to provide GM with full and complete access to various documents, including all financial and business records relating to both the acquisition of the Site by BICAL and the construction of a new GM dealership facility by BICAL at the Site.

10. On or about March 27, 2012, Special Agents of the Federal Bureau of Investigation ("FBI") met with BICAL and asked him questions about, among other topics, BICAL's efforts to obtain the Proposed Funding from GM to build a new dealership facility at the Site through fraudulent means. BICAL admitted, in sum and substance, that he did not

believe that he had a non-disclosure agreement with the EDC. The FBI Special Agents played BICAL a recording of the February 24, 2012 telephone conversation between BICAL and BACHU detailed in paragraph six above. When asked about the meaning of this conversation, BICAL stated: "I did not want GM to know my business."

12. After BICAL's meeting with the FBI Special Agents, the government informed GM of the scheme involving BICAL and BACHU. Subsequently, GM did not provide BICAL with the Proposed Funding.

COUNT ONE
(Attempt and Conspiracy to Commit Mail and Wire Fraud)

13. The allegations contained in paragraphs one through 12 are realleged and incorporated as if set forth fully in this paragraph.

14. In or about and between December 2011 and April 2012, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LILAAHAR BICAL, also known as "Sammy," and DARMIN BACHU, together with others, did knowingly and intentionally attempt and conspire to devise a scheme and artifice to defraud GM, and to obtain money and property from GM by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, (a) to deposit and cause to be deposited one or more matters and things to be sent and delivered by private or commercial interstate carrier, contrary to Title 18, United States Code, Section 1341; and (b) to transmit and cause to be transmitted writings, signs, signals and sounds by means of wire communication in interstate commerce, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNT TWO
(Mail Fraud)

15. The allegations contained in paragraphs one through 12 are realleged and incorporated as if set forth fully in this paragraph.

16. In or about and between December 2011 and April 2012, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LILAAHAR BICAL, also known as "Sammy," and DARMIN BACHU, together with others, did knowingly intentionally devise a scheme and artifice to defraud GM, and to obtain money and property from GM by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to deposit and cause to be deposited one or more matters and things to be sent and delivered by private or commercial interstate carrier, to wit: the Letter of Intent sent by GM to BICAL.

(Title 18, United States Code, Sections 1341, 2 and 3551 et seq.)

COUNT THREE
(Wire Fraud)

17. The allegations contained in paragraphs one through 12 are realleged and incorporated as if set forth fully in this paragraph.

18. In or about and between December 2011 and April 2012, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants LILAAHAR BICAL, also known as "Sammy," and DARMIN BACHU, together with others, did knowingly and intentionally devise a scheme and artifice to defraud GM, and to obtain money and property from GM by means of false and fraudulent pretenses,

representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted writings, signs, signals and sounds by means of wire communication in interstate commerce, to wit: an email log-in communication on or about February 24, 2012 between Brooklyn, New York and the state of Virginia.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

19. The United States hereby gives notice to the defendants that, upon their conviction of any of the offenses charged in Counts One, Two and Three, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(2)(B), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offense, for which the defendants are jointly and severally liable.

20. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 982(a)(2)(B); Title 21, United States Code, Section 853(p))

A TRUE BILL

FOREPERSON

ROBERT L. CAPERS
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F. #2014R00231
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

LILAAHAR BICAL and DARMIN BACHU,

Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 982(a)(2)(B), 1341, 1343, 1349, 2 and 3551 et seq.; T. 21, U.S.C. § 853(p))

A true bill.

_______________________ *Foreperson*

Filed in open court this ______________ *day,*

of ____________ *A.D. 20* _____

_______________________ *Clerk*

Bail, $ ____________

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Alexander A. Solomon, Assistant U.S. Attorney (718) 254-6074